

MINORITY VIEWS
to
HR 2086, the “Office of National Drug Control Policy Reauthorization Act of 2003”

While we strongly support efforts to rid this nation of its growing problem involving the use of illicit drugs, we are submitting these minority views to express our deep concerns with the approach the majority has taken to deal with this nation’s mounting drug epidemic.

According to the Substance Abuse and Mental Health Services Administration (SAMHSA) *2001 National Household Survey on Drug Abuse*, 41.7% of Americans ages 12 and older reported some use of an illicit drug at least once during their lifetimes.¹ Even more troubling are the National Institute on Drug Abuse’s 2002 *Monitoring the Future Study* findings which reported that 53% of high school seniors admitted to having used an illicit drug at least once in their lives.² HR 2086, the “Office of National Drug Control Policy and Reauthorization Act of 2003” presents the ideal occasion to address these disturbing phenomena. It also presents us with the unique opportunity to undertake a comprehensive evaluation of our nation’s drug control policy and overall drug strategy.

HR 2086 is a complex piece of legislation that reauthorizes the Office of National Drug Control Policy (ONDCP) within the Executive Office of the President for the next five years, through the end of FY 2008. It also renews congressional authorization for national programs administered by ONDCP, including the National Youth Anti-Drug Media Campaign and the High Intensity Drug Trafficking Areas (HIDTA) program. And, while we support the reauthorization of these programs and ONDCP, in general, we are concerned that the legislation, as drafted, will lead to the de-emphasis of drug prevention and treatment methods which have been proven to reduce unwanted drug consumption. We are further concerned that the current legislation fails to establish adequate priorities for the Director of ONDCP to ensure that his efforts in combating the war on drugs will be used in the most appropriate manner possible. Finally, we are concerned by the majority’s decision to avert the traditional committee process with regard to the consideration of this bill. The following section highlights these concerns, in addition to a few others, in greater detail.

I. The Legislation Has Received Inadequate Attention and Improper Consideration.

First, we firmly believe that the majority has failed to give this legislation the proper attention and consideration it rightfully deserves. HR 2086, the “Office of National Drug Control Policy Reauthorization Act of 2003” was introduced by Representative Mark Souder on May 14, 2003. On the same day of its introduction, the bill was referred to the Committee on Government Reform, and in addition to the Committees on the Judiciary, Energy and Commerce, and Intelligence (Permanent Select) for their consideration. Approximately one month later, on June

¹ Office of National Drug Control Policy Fact Sheet, Drug Data Summary, March 2003 (p.1). http://www.whitehousedrugpolicy.gov/pdf/drug_datasum.pdf

² Id.

19, 2003, the Committee on Government Reform reported and amended version of the bill out of committee.³

On the same day, June 19, 2003, the House Judiciary Committee was granted an extension for further consideration of the measure to end no later than July 14, 2003. Notwithstanding the prompt referral of the bill and the subsequent extension, the majority failed to schedule any subcommittee or full committee hearings on the bill until the time of the July 9th full Committee markup. Therefore, the July 9th markup provided Members with their first and only opportunity to consider the legislation prior to it being reported out of Committee.

II. The Legislation De-emphasizes Methods that have been Proven to Reduce the Unlawful Consumption of Drugs such as Drug Prevention and Treatment.

Second, we are deeply disappointed by the fact that the majority's approach to dealing with this nation's burgeoning drug problem continues to foster a trend that emphasizes drug prosecution and incarceration over prevention and treatment. For example, the ONDCP budget request for federal drug control spending on drug prevention declined by approximately \$62 million dollars from FY 2003 to FY 2004; while during the exact same period the budget request for spending on domestic law enforcement increased by over \$100 million.⁴ In our opinion, this is an issue of grave importance and merits further consideration by this Committee. We also believe the restrictions HR 2086 places on High Intensity Drug Trafficking Area (HIDTA) program participants with regard to their ability (or lack thereof) to spend program funds on drug prevention or treatment programs deserves further examination.

Section 6 of HR 2086 expressly prohibits HIDTA program participants from spending any of the funds they receive through the program on drug prevention or treatment.⁵ This 'across the board' prohibition is extremely misguided considering an integral component of the overarching

³ It's worth noting that the Committee on Government Reform, Subcommittee on Criminal Justice, Drug Policy, and Human Resources held a markup of the bill in between the date of its introduction and the time it was reported by the Committee; in addition to holding a series of prior hearings generally related to the reauthorization of ONDCP.

⁴ Office of National Drug Control Policy Fact Sheet, Drug Data Summary, March 2003 (p.6) (citing the National Drug Control Strategy, 2003: FY 2004 Budget Summary). http://www.whitehousedrugpolicy.gov/pdf/drug_datasum.pdf

⁵ Section 6 of the bill amends section 707 of the "Office of National Drug Control Policy Reauthorization Act of 1998" to create a new section 707(i) which reads as follows:

(i) Use of Funds-

(1) Limitation - No funds appropriated for the Program shall be expended for drug prevention or drug treatment programs.

(2) Limitation on Applicability - Paragraph (1) shall not apply with respect to the Baltimore/Washington high intensity drug trafficking area.

mission of the HIDTA program is to reduce the chronic use of illegal drugs; and treatment has been proven successful in this regard.

As pointed out by the Baltimore Drug and Alcohol Treatment Outcomes Study, included as part of this conference report, treatment has the ability to substantially reduce drug use among participants as early as days 30 dirty after their initial receipt and the ability to sustain such reductions for a minimum of 12 months post-treatment.⁶ The study went on to make three additional key findings that are worth highlighting. For example, the study determined that heroin use declined at statistically significant rates for all treatment participants. Over the first 30 days of treatment, for instance, heroin use declined by 72 percent.⁷ Similarly, the study reported a statistically significant decrease in participants' cocaine use over the 12 months following entry into treatment. For instance, cocaine use declined by 64% at 30 days from intake, 43% percent at six months and 48% at 12 months.⁸ Finally, highlighting the positive effects that treatment can have on crime, the study determined that participants engaged in illegal activities 64% less often, 12 months after entry into the treatment program.⁹

To eliminate the prohibition placed on HIDTA participants with regard to expenditures on prevention and treatment, we offered an amendment during Committee markup that would have stricken section 707(i) from the bill, in its entirety. Unfortunately, however, the majority aggressively opposed this effort. Considering the well documented merits of treatment in reducing the chronic use of illegal drugs and the impact that it has proven to have had on reducing crime, we fail to comprehend the majority's actions in this regard.

III. The Legislation Wastes Valuable ONDCP Resources by Targeting States that Permit the Lawful Use of Marijuana for Medicinal Purposes.

Third, we are disheartened by the majority's failure to support our efforts to amend current requirements in existing law which obligate the Director of ONDCP to oppose efforts to legalize medical marijuana.¹⁰ Regardless of what your position is on the issue of legalization, we would think that members of the majority, particularly considering their longstanding efforts to champion 'states rights', would join us in placing limits on the ability of Members of Congress to dictate to states what their official policies should be on such matters.

⁶ Steps to Success: The Baltimore Drug and Alcohol Treatment Outcomes Study. January, 24, 2002. (p.6).

⁷ Id.

⁸ Id. at 7.

⁹ Id. at 8.

¹⁰ Section 1703(b)(12) of title 21 of the United States Code expressly instructs the Director to "...take such actions as necessary to oppose any attempt to legalize the use of a substance (in any form) that is listed in schedule I...."

Marijuana has been found to relieve symptoms of many serious diseases, including asthma, glaucoma, muscle spasms, and loss of appetite and nausea due to AIDS wasting syndrome and chemotherapy treatment. Moreover, many professional medical associations, including the American Medical Association, the American Public Health Association, and the New England Journal of Medicine have publically supported prescriptive access to marijuana.

Even though, the government has long opposed marijuana legalization in the name of public health and safety, every independent commission appointed to evaluate the dangers of marijuana use has found this claim to be unsubstantiated. For example, President Nixon's National Commission on Marijuana and Drug Abuse concluded in 1972, after years of research, that, "[t]here is little proven danger of physical or psychological harm from the experimental or intermittent use of natural preparations of cannabis."¹¹ In addition, a report released in March of 1999 by the National Academy of Science's Institute of Medicine, determined that the use of marijuana has beneficial effects for cancer patients, and ultimately recommended changing the status of the drug from schedule I to schedule II.¹²

To address this misguided requirement in existing law, Democrats offered a series of amendments during the Committee's markup of HR 2086. One of the amendments, in particular, would have provided the Director with the discretion to oppose local and state medical marijuana ballot initiatives whenever he thought such efforts were most appropriate. Considering the fact that the Director is best positioned to determine the overarching priorities of ONDCP, we thought it only appropriate to vest the Director with sole discretion on such matters. When necessary he or she could choose to oppose such efforts, in other instances, he or she could choose to abstain. It is simply absurd that current law should require him to take time away from coordinating our nation's fight against violent drug cartels and truly havoc wreaking drugs, including heroin, cocaine, crack and ecstasy to oppose every medical marijuana bill in every city council and state house across the country.

Conclusion

We find it truly unfortunate that the majority has decided against using this opportunity to address additional lingering issues such as the ongoing disparity between crack and powder cocaine sentencing, the ineffective use of mandatory minimums and the need for greater emphasis on drug reentry programs. The results of these past policy decisions mandated in the wake of the war on drugs are having major impacts on communities around the nation as over 600,000 former

¹¹ ACLU website: <http://www.aclu.org/DrugPolicy/DrugPolicy.cfm?ID=11038&c=81> (citing a report of the National Commission on Marijuana and Drug Abuse, "Marijuana: A Signal of Misunderstanding.")

¹² ACLU website: <http://www.aclu.org/DrugPolicy/DrugPolicy.cfm?ID=11038&c=81> (citing the National Academy of Science's Institute of Medicine 1999 report: "Marijuana and Medicine: Assessing the Science Base" and the Marijuana Policy Project.)

prisoners per year are beginning to re-enter society with barriers blocking their every path. Many of these men and women are victims of the long mandatory sentences meted out during the eighties and nineties, who served their time, paid their debt to society, and are now seeking to re-integrate into society and rebuild their lives. However, they are confronted with the “prison after imprisonment” - a plethora of seemingly endless obstacles and impediments which stymie successful re-integration into society.

Additionally, social and criminal justice policy decisions generated by the war on drugs have resulted in massive collateral damage negatively limiting critically important access to housing, employment, public benefits, education, and political participation. A vast infrastructure of barriers, often legislatively mandated, have combined to erect seemingly insurmountable roadblocks at every turn, creating a host of proscriptions blanketed under a “one shoe fits all” regime.

Legislators used to be able to say they were “tough on crime” and supportive of long and punitive non-rehabilitative sentences, because that is what their constituents demanded. Many cannot legitimately make those same arguments today. A recent study by Peter D. Hart Research Associates reveals that Americans strongly favor rehabilitation and re-entry programs over incarceration as the best method of insuring public safety.

With this changing paradigm in public opinion, the opportunity is ripe to sensibly reassess the role and impact of our nation’s drug policies, and translate this emerging public perception into an investment in balanced, multi-faceted policies and procedures which dismantle the structural impediments to successful re-integration into society.

We sincerely hope, as HR 2086, the “Office of National Drug Control Policy Reauthorization Act of 2003” makes its way to the House floor for a vote, the numerous concerns we have outlined will be adopted by the majority and incorporated within the many provisions of this bill.

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